

Food and Nutrition Service, USDA

§ 252.6

shall obtain an independent audit conducted by a CPA every two years and those receiving less than \$75,000 in donated food each year shall obtain an independent audit conducted by a CPA every three years. Processors in the three year audit cycle shall move into the two year audit cycle when the value of donated food received reaches \$75,000. If the Department determines that the audit is not acceptable or that the audit has disclosed serious deficiencies, the processor shall be subject to additional audits by OIG at the request of FNS.

(i) Audits shall be conducted in accordance with the auditing provisions set forth under the *Standards for Audit of Government Organizations, Programs, Activities and Functions*, and the FNS Audit Guide for Multi-State Processors.

(ii) The costs of the audits shall be borne by the processor.

(iii) Audit findings shall be submitted by the processors to FNS.

(iv) Noncompliance with the audit requirement contained in this part will render the processor ineligible to enter into another processing contract until the required audit has been conducted and deficiencies corrected.

[51 FR 23518, June 30, 1986, as amended at 52 FR 16369, May 5, 1987; 52 FR 24978, July 2, 1987; 53 FR 16379, May 9, 1988; 53 FR 34014, Sept. 2, 1988; 59 FR 62986, Dec. 7, 1994]

§ 252.5 Recipient agency responsibilities.

(a) *Registration.* Recipient agencies that have approved agreements with State distributing agencies to receive donated food may register with FNS on an FNS approved form to participate in the NCP Program. Upon request, FNS will provide recipient agencies with registration forms. Recipient agencies shall notify FNS when they are no longer eligible to receive donated food under an agreement. Failure to notify FNS shall result in claim action.

(b) *Recipient agency records.* Each recipient agency shall maintain accurate and complete records with respect to the receipt, disposal, and inventory of donated food, including products processed from donated food, and with respect to any funds which arise from the operation of the distribution program.

(c) *Refunds.* A recipient agency purchasing end products under the NCP Program from a processor utilizing a refund system shall submit a refund application supplied by the processor to the processor within 30 days of receipt of the end products, except that recipient agencies may submit refund applications to a single processor on a Federal fiscal quarterly basis if the total anticipated refund due for all purchases of end product from that processor during the quarter is 25 dollars or less. Recipient agencies must insure that any funds received as a result of refund payments be designated for use by the food service department.

(d) *Verification.* If requested by FNS, each recipient agency shall cooperate in the verification of end product sales reported by processors under the NCP Program. The recipient agency may be requested to verify actual purchases of end products as substantiated by the recipient agency's invoices and may also be requested to verify that the invoice correctly identifies the discount included or refund due for the value of the donated ingredient contained in the end product.

[51 FR 23518, June 30, 1986, as amended at 59 FR 62987, Dec. 7, 1994]

§ 252.6 Miscellaneous provisions.

(a) *Improper distribution or loss of or damage to donated food.* If a processor improperly distributes or uses any donated food, or causes loss of or damage to a donated food through its failure to provide proper storage, care, or handling, FNS shall require the processor to pay to the Department the value of the donated food as determined by the Department.

(b) *Disposition of damaged or out-of-condition food.* Donated food which is found to be damaged or out-of-condition and is declared unfit for human consumption by Federal, State, or local health officials, or by any other inspection services or persons deemed competent by the Department, shall be disposed of in accordance with instructions of the Department. This instruction shall direct that unfit donated food be sold in a manner prescribed by the Department with the net proceeds thereof remitted to the Department. Upon a finding by the Department that